

# BOA GENERAL REVIEW COVERSHEET

**CASE:** C15-2021-0026

**BOA DATE:** March 8<sup>th</sup>, 2021

**ADDRESS:** 4005 Sidehill Path

**COUNCIL DISTRICT:** 10

**OWNER:** Luis Zaragoza

**AGENT:** Matt Williams

**ZONING:** SF-3

**LEGAL DESCRIPTION:** LOT 1 BLK F NORTHWEST HILLS NORTHWEST OAKS II

**VARIANCE REQUEST:** decrease the minimum front yard setback from 25 feet to 15 feet

**SUMMARY:** erect a Single-Family residence

**ISSUES:** trees and natural front of the lot

	ZONING	LAND USES
<i>Site</i>	SF-3	Single-Family
<i>North</i>	SF-3	Single-Family
<i>South</i>	SF-3	Single-Family
<i>East</i>	SF-3	Single-Family
<i>West</i>	SF-3	Single-Family

**NEIGHBORHOOD ORGANIZATIONS:**

- Austin Independent School District
- Austin Lost and Found Pets
- Austin Neighborhoods Council
- Bike Austin
- Friends of Austin Neighborhoods
- NW Austin Neighbors
- Neighborhood Empowerment Foundation
- Northwest Austin Civic Association
- SEL Texas
- Sierra Club, Austin Regional Group
- TNR BCP – Travis County Natural Resources



**CITY OF AUSTIN**  
Development Services Department  
One Texas Center | Phone: 512.978.4000  
505 Barton Springs Road, Austin, Texas 78704

## Board of Adjustment General/Parking Variance Application

**WARNING: Filing of this appeal stops all affected construction activity.**

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, click here to Save the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

**For Office Use Only**

Case # _____	ROW # _____	Tax # _____
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### Section 1: Applicant Statement

Street Address: 4005 Sidehill Path, Austin, Texas 78731

Subdivision Legal Description:

Northwest Hills - Northwest Oaks II - according to the map or plat thereof recorded in Volume 58, Page 11, Plat Records, Travis County, Texas

Lot(s): 1 Block(s): F

Outlot: \_\_\_\_\_ Division: \_\_\_\_\_

Zoning District: SF-3

I/We Luis Zaragoza on behalf of myself/ourselves as authorized agent for Paradisa Homes, LLC affirm that on Month January, Day 29, Year 2021, hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

Erect  Attach  Complete  Remodel  Maintain  Other: \_\_\_\_\_

Type of Structure: single family residence

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

25-2-492, specifically Zone SF-3 minimum front setback regulations. Minimum setbacks are 25'. Seeking variance to allow 15' setback. Improvement will observe 25' setback on defined 'side' of lot facing Sidehill Path.

## Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

**NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.**

I contend that my entitlement to the requested variance is based on the following findings:

### Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

The setbacks on this lot treat the natural front of the lot, along Sidehill Path, as the side of the lot. The house originally occupying the property, built in 1973, was laid out facing the natural front and substantially encroached into the 'front' setback along its side and stood, without apparent dispute or problem, for nearly fifty years. The proposed new structure would occupy a similar footprint and have a similar encroachment. If the official setbacks are to be used, there are mature trees which would prevent full use of such setbacks on the north and east sides of the lot. (Continued below)

### Hardship

a) The hardship for which the variance is requested is unique to the property in that:

The natural and logical front of the lot faces into Sidehill Path, while the official front of the lot, as defined in the neighborhood plat, faces Stonewood Drive. The setbacks defined on the neighborhood plat are 'turned' such that the natural front is technically the side of the lot. However, the prior single-family home on the lot faced Sidehill Path and was laid out as though the front setback ran along Sidehill Path. (continued below)

b) The hardship is not general to the area in which the property is located because:

All other 'interior' lots and most corner lots in the development face their natural fronts, while only some corner lots exhibit the 'turned' setbacks. All other homes on corner lots with 'turned' setbacks face the natural front (official side) of the lot; requiring this lot to . Additionally, a number of large, mature trees are located on the lot which prevent moving the structure to align with the official setbacks.

**Area Character**

The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The proposed improvement for this lot is a single-family residence, which is the same as all lots in the neighborhood. The proposed improvement has no impact on the use of adjacent lots. The use of the lot for a single family residence is the use contemplated by the zoning district in which the property is located. Indeed, the proposed improvement was already approved by the City of Austin Planning Department, who did not realize there was an encroachment and did not realize the setbacks were "turned" on this lot.

**Parking** (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

- 1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

N/A

- 2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

- 3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

N/A

- 4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A

**Section 3: Applicant Certificate**

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: [Signature] Date: 2/5/21

Applicant Name (typed or printed): Luis Zaragoza on behalf of Paradisa Homes, LLC

Applicant Mailing Address: 7427 N Lamar Blvd, Ste 101

City: Austin State: Texas Zip: 78752

Phone (will be public information): (512) 782-8582

Email (optional – will be public information): \_\_\_\_\_

**Section 4: Owner Certificate**

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature: [Signature] Date: 2/5/21

Owner Name (typed or printed): Luis Zaragoza on behalf of Paradisa Homes, LLC

Owner Mailing Address: 7427 N Lamar Blvd, Ste 101

City: Austin State: Texas Zip: 78752

Phone (will be public information): (512) 782-8582

Email (optional – will be public information): [Redacted]

**Section 5: Agent Information**

Agent Name: M. Matt Williams, Attorney at Law

Agent Mailing Address: 248 Addie Roy Road, Suite B204

City: Austin State: Texas Zip: 78746

Phone (will be public information): (512) 600-4324

Email (optional – will be public information): [Redacted]

**Section 6: Additional Space (if applicable)**

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Continued from Section 2. "Reasonable Use." It is worth noting that even the City Plan Review team did not realize that there was an encroachment as to the former residence or proposed new construction. The new construction received a building permit from the City before Applicant discovered the 'turned' setback issue and brought the issue to the attention of the City.

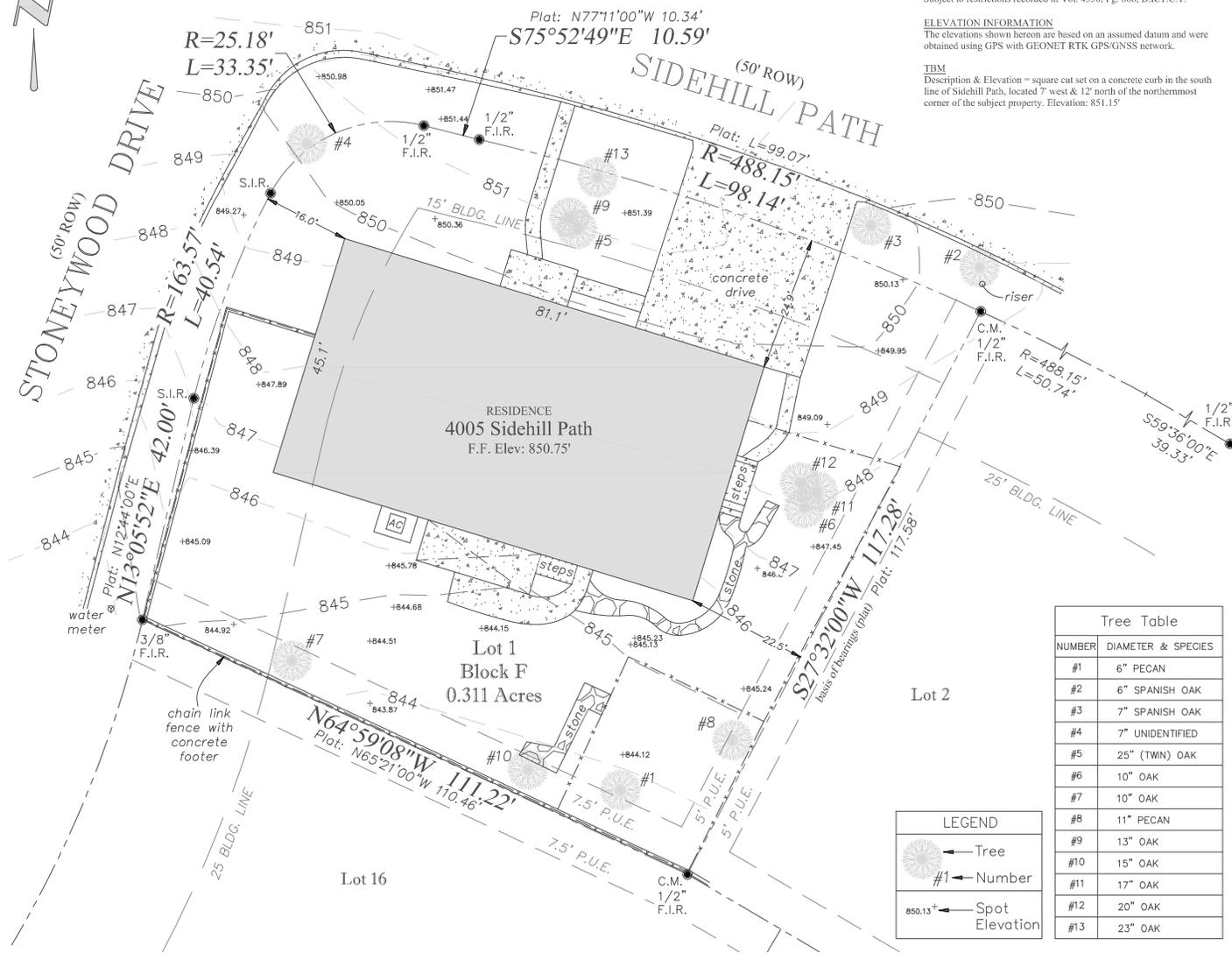
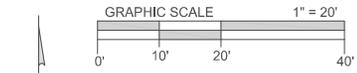
**Additional Space (continued)**

The home would be in compliance with setback rules were the setbacks aligned with the natural front of the lot along Sidehill Path.

Continued from Section 2, "Hardship" (a): That existing configuration encroached on what was technically the front setback along Stoneywood Dr. However, that encroachment was apparently never noticed or the subject of any violation citation. The prior home's configuration, facing into Sidehill Path, is in keeping with general design of nearly all other homes in the neighborhood which almost universally face into the longer street on which they are located including nearly all of the corner lots. The proposed new residence occupies a smaller footprint than the original structure, but maintains its general layout on the lot. In the nearly 50 years the original residence was in place, a number of Live Oak trees grew up on the North and East sides of the home, which trees now meet the requirements for "protected" status under Austin Municipal Code 35-8-602. These trees and their root systems would be impacted by either shifting the residence to the east, or turning the long axis of the house to face Stoneywood. At least six other corner lots in the development have similar "turned" setbacks and none of them face towards the official front, but rather towards the natural front as both the former residence did, and proposed new residence would do. Given the historic use of the lot, the smaller footprint of the new residence, the potential for damage to protected trees, and the use of other similarly-situated lots, it is a hardship unique to this property to enforce the setbacks as defined for this lot. An additional hardship here is that the new construction had been approved by the City of Austin for building before any party realized the issue. Applicant discovered the issue and brought it to the attention of the City. The former residence has been demolished pursuant to City demolition permit but the project is on hold over this setback issue.



4005 SIDHILL PATH



**TITLE NOTES:**  
 Surveyor did not abstract subject property. This survey was prepared with information contained in Title Commitment GF No. 2056927-ARB of Title Resources Guaranty Company, effective September 21, 2020, issued September 29, 2020, and is subject to the limitations of that commitment.  
 Subject to restrictions recorded in Vol. 4350, Pgg. 888, D.R.T.C.T.

**ELEVATION INFORMATION**  
 The elevations shown hereon are based on an assumed datum and were obtained using GPS with GEONET RTK GPS/GNSS network.

**TBM**  
 Description & Elevation = square cut set on a concrete curb in the south line of Sidehill Path, located 7' west & 12' north of the northernmost corner of the subject property. Elevation: 851.15'

**PROPERTY DESCRIPTION**  
 LOT 1, BLOCK F, NORTHWEST HILLS, NORTHWEST OAKS - II, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 58, PAGE 11, PLAT RECORDS, TRAVIS COUNTY, TEXAS.

<b>Field Date</b>	10/6/2020
<b>ASC No.</b>	2009.7690-TOPO
<b>Buyer:</b>	
<b>Client:</b>	PARADISA HOMES
<b>G.F. No.</b>	2056927-ARB
<b>Dancer/Field Corr</b>	C.M. / A.M.



4005 SIDHILL PATH  
 AUSTIN, TEXAS 78731

**LEGEND:** C.M. = Controlling Monument; End = Found; I.R. = Iron Rod; I.P. = Iron Pipe  
 O.H.E. = Overhead Electric; I.R.S. = Set Iron Rods 1.25" diameter with yellow cap stamp  
 "Arthur Surveying Company". All found iron rods are 1.25" diameter unless otherwise noted.  
 (fence-post) x x x centerline (overhead electric) ————

**FLOOD NOTE:**  
 BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X, PER 480624 0435K, DATED: JANUARY 22, 2020.

The undersigned have/has received and reviewed a copy of this survey.

X \_\_\_\_\_  
 X \_\_\_\_\_  
 Date: \_\_\_\_\_

NUMBER	DIAMETER & SPECIES
#1	6" PECAN
#2	6" SPANISH OAK
#3	7" SPANISH OAK
#4	7" UNIDENTIFIED
#5	25" (TWIN) OAK
#6	10" OAK
#7	10" OAK
#8	11" PECAN
#9	13" OAK
#10	15" OAK
#11	17" OAK
#12	20" OAK
#13	23" OAK

	Tree
#1	Number
850.13 +	Spot Elevation

**SURVEYORS CERTIFICATION:**  
 The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct and to the best of my knowledge there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights of way that I have been advised of except as shown hereon. The bearings shown hereon are based on the above referenced recorded map or plat unless otherwise noted.

ISSUE DATE: 10/7/2020

**ARTHUR**  
 LAND SURVEYING  
 AN EXACTA COMPANY  
 11111 Richmond Ave, Suite 150 | Houston, TX 77082  
 281-037-2731 Branch no. 10104357  
 arthursurveying.com



*Michael D. Morton*



March 9, 1972 - RE CHA 4227 #7\*

CURVE DATA

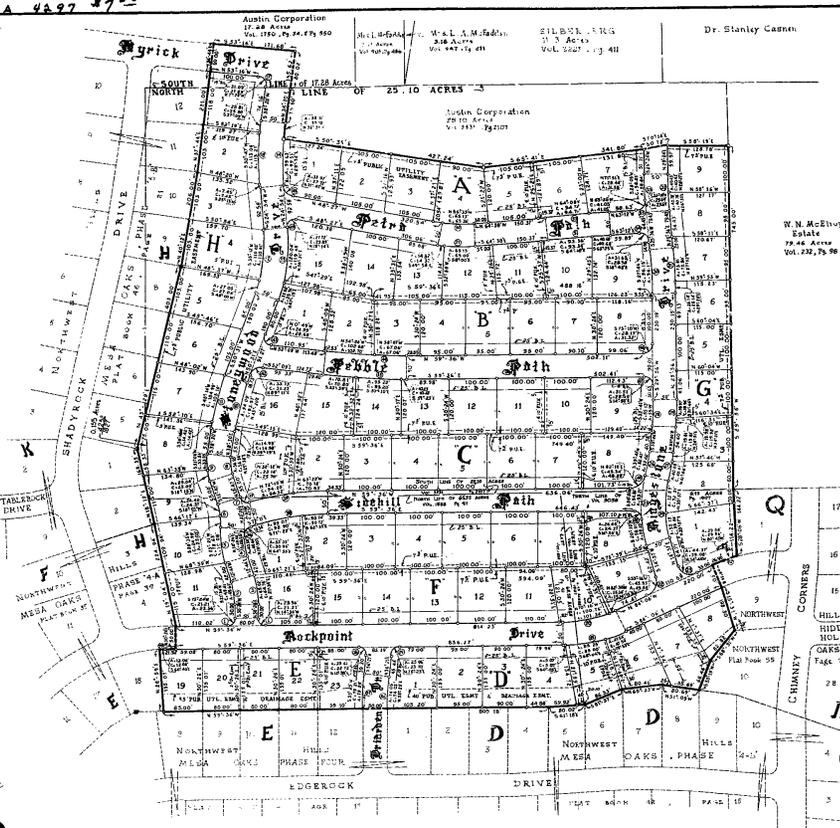
Station	Chord	Angle	Radius	Chord	Angle	Radius
1	82.50	17.40	171.40	21.17	211.17	211.17
2	15.00	142.87	230.87	18.37	233.37	133.80
3	15.00	23.00	30.00	15.00	40.00	25.00
4	23.24	49.80	65.00	40.37	79.88	49.87
5	21.21	44.47	64.78	30.52	74.33	48.15
6	21.18	23.43	23.74	12.91	127.17	23.17
7	185.80	81.42	131.43	139.04	170.00	202.80
8	34.24	18.39	30.00	54.14	40.00	70.00
9	81.00	36.35	58.91	109.07	119.34	137.44
10	47.32	34.24	58.50	108.87	119.34	134.57
11	20.17	13.24	13.24	91.24	93.17	93.17
12	157.90	574.70	624.70	18.17	18.17	18.17
13	81.27	17.48	73.27	27.00	27.00	27.00
14	180.02	134.24	144.13	21.89	22.57	22.57
15	188.48	119.24	144.13	21.89	22.57	22.57
16	84.70	24.20	24.20	81.17	84.70	84.70
17	11.30	212.40	112.40	11.30	112.40	112.40
18	18.14	18.14	70.00	25.15	25.15	25.15
19	17.16	114.48	137.80	44.27	127.72	44.27
20	23.70	115.97	136.81	49.57	136.08	49.57
21	245.20	47.51	87.51	57.50	57.50	47.50
22	279.14	232.81	402.50	574.50	434.50	1679.50
23	74.28	24.24	30.00	27.40	30.00	49.11
24	123.21	23.24	59.89	91.15	89.87	89.87
25	131.14	22.41	59.89	91.15	89.87	89.87
26	41.20	17.48	174.47	121.13	121.13	121.13
27	120.50	1224.47	1274.47	23.18	23.18	23.18
28	99.95	81.21	84.57	33.32	33.32	33.32
29	99.95	81.21	84.57	33.32	33.32	33.32
30	82.74	17.35	173.24	14.27	141.20	141.20
31	16.17	448.15	236.15	24.44	24.44	24.44
32	14.26	74.20	83.23	24.85	14.80	20.00
33	22.10	148.80	145.80	44.80	24.11	24.11
34	23.14	148.80	145.80	44.80	24.11	24.11
35	102.00	17.27	172.27	191.27	191.27	191.27
36	18.00	1305.54	1205.54	18.00	20.04	21.39
37	20.00	45.00	88.54	20.00	20.00	20.00
38	29.64	169.74	174.24	31.37	21.63	23.00
39	29.64	169.74	174.24	31.37	21.63	23.00
40	104.28	16.17	167.17	17.26	187.44	187.44
41	14.87	230.35	230.35	139.18	244.80	244.80
42	20.00	22.89	40.00	41.27	19.90	20.00
43	27.74	62.50	79.47	114.54	133.74	21.40
44	27.74	62.50	79.47	114.54	133.74	21.40
45	27.74	62.50	79.47	114.54	133.74	21.40
46	27.74	62.50	79.47	114.54	133.74	21.40
47	89.73	5.37	5.37	4.44	4.07	4.07
48	20.19	71.17	73.13	29.16	34.44	34.44
49	20.00	21.00	21.00	14.26	14.26	14.26
50	31.58	14.00	72.00	23.16	22.00	22.00
51	24.14	34.02	73.21	23.14	17.00	17.00

LEGEND

- IRON PIN FOUND
- IRON NAIL SET
- CONC. MONUMENT FOUND
- CONC. MONUMENT SET
- PUBLIC UTILITY EASEMENT
- BELIEVED LINE



ENCROACHMENT NOTE  
 THERE ARE FENCE ENCROACHMENTS ON THE WESTERN LINE OF BLOCK "H" BUT THEY DO NOT EXTEND MORE THAN 170 FEET INTO SAID BLOCK "H"



THE STATE OF TEXAS,  
 COUNTY OF TRAVIS:

KNOW ALL MEN BY THESE PRESENTS, That the Austin Corporation, a corporation organized and existing under the laws of the State of Texas, having its home office in the city of Austin, Texas, joined through its President David B. Barrow, owner of the tract described below in the George W. Davis Survey No. 15, hereby subdivides 33.35 Acres of land on this plat consisting of 0.355 Acres out of 17.28 Acres recorded in Volume 1700, Page 34 C 550;

20.59 Acres out of 23.10 Acres recorded in Volume 3301, Page 2907;

3.142 Acres out of 6.43 Acres recorded in Volume 3004, Page 1507;

0.12 Acres out of 65.55 Acres recorded in Volume 1858, Page 411;

0.355 Acres out of 0.195 Acres recorded in Volume 4192, Page 1827

of the Deed Records of Travis County, Texas, to be known as NORTHWEST HILLS, NORTHWEST OAKS - II, and do adopt this map of subdivision hereby dedicating to the public use the streets and easements as shown thereon.

WITNESS MY HAND, this 22 day of July, A.D. 1971.

Attest:  
 Kay Stanley Secretary  
 David B. Barrow, President, Austin Corporation

THE STATE OF TEXAS,  
 COUNTY OF TRAVIS:

BEFORE ME, the undersigned authority, on this day personally appeared David B. Barrow of the Austin Corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as his act and deed of the Austin Corporation for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 22 day of July, A.D. 1971.

Romaine Linton  
 Notary Public in and for Travis County, Texas

APPROVED FOR ACCEPTANCE:

Date: 7/22/71  
 Richard R. Little, Director of Planning

ACCEPTED AND AUTHORIZED FOR RECORD BY THE PLANNING COMMISSION, CITY OF AUSTIN, TEXAS, this 19th day of March, A.D. 1972.

Jan Allen Smith, Secretary  
 W. J. Chambers, Chairman

FILED FOR RECORD, at 11:25 o'clock A.M., this 9 day of March, A.D. 1972.

Doris Shropshire, Deputy  
 Doris Shropshire, Clerk, County Court, Travis County, Texas

THE STATE OF TEXAS,  
 COUNTY OF TRAVIS:

I, Doris Shropshire, Clerk of the County Court, within and for the State and County aforesaid do hereby certify that the foregoing instrument of writing with its Certificate of Authentication was filed for record in my office on the 9 day of March, A.D. 1972, at 11:25 o'clock A.M., and duly recorded on the 9 day of March, A.D. 1972, at 11:25 o'clock A.M., in the Plat Records of said County in Plat Book 28, Page 11.

WITNESS MY HAND AND SEAL OF THE COURT OF SAID COUNTY, this 14th day written above.

Doris Shropshire, Deputy  
 Doris Shropshire, Clerk, County Court, Travis County, Texas

THIS IS TO CERTIFY THAT AUSTIN CITY CODE CHAPTER 23.27 OF 1954 HAS BEEN COMPLIED WITH

Surveyed By:  
 BRYANT - CURINGTON, INC.

Note: SHERMANS REQUIRED ON:  
 1. THE SOUTH SIDE OF ROCKPOINT DRIVE  
 2. THE NORTH SIDE OF HILLTOP DRIVE  
 3. THE WEST SIDE OF HILLTOP DRIVE

Joyce D. Fleet, 7-20-71  
 Registered Professional Engineer

# Northwest Hills

## NORTHWEST OAKS - II





# Property Profile

E-1/10

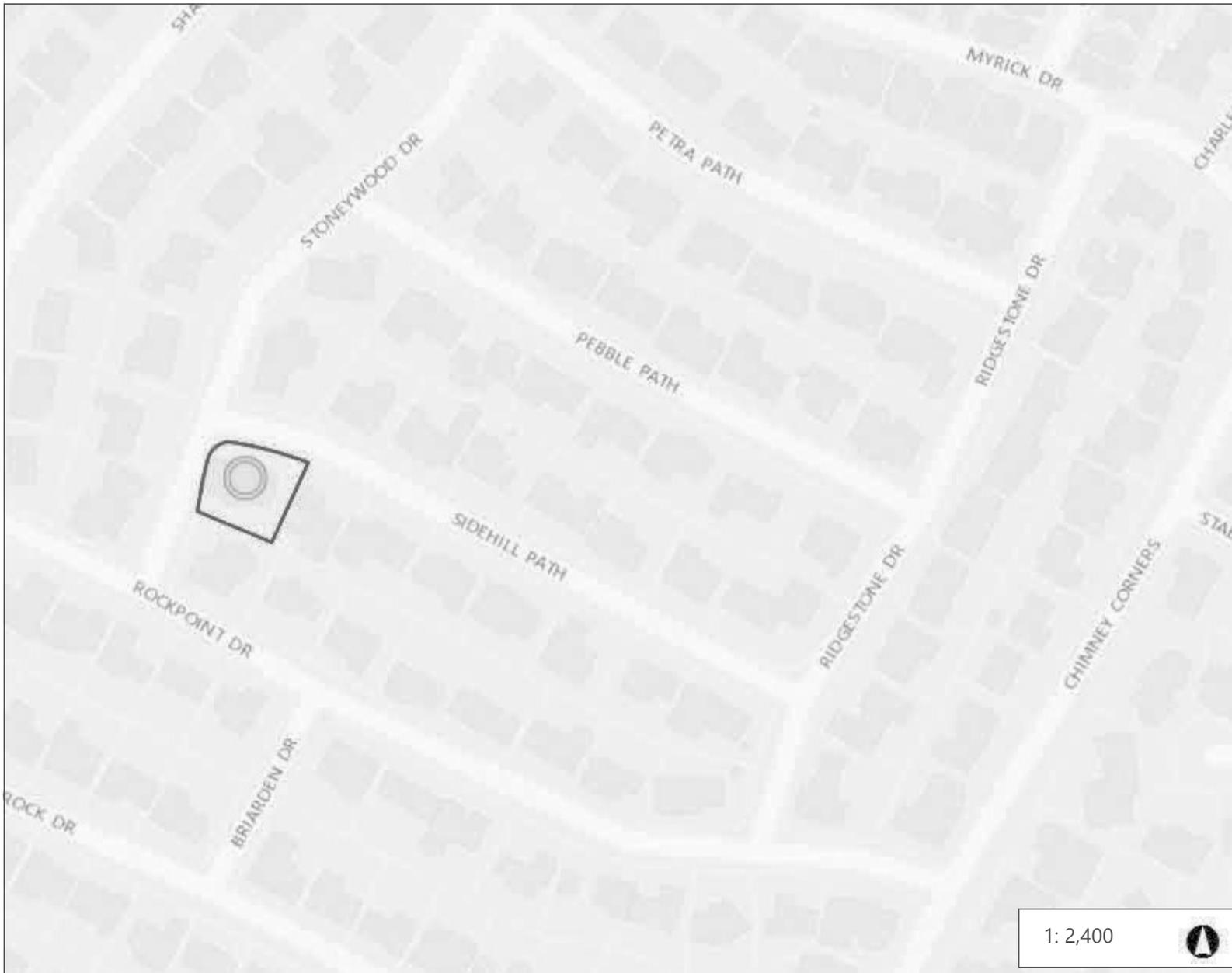
## Legend

### Jurisdiction

- FULL PURPOSE
- LIMITED PURPOSE
- EXTRATERRITORIAL JURISDICTION
- 2 MILE ETJ AGRICULTURAL AGR
- OTHER CITY LIMITS
- OTHER CITIES ETJ

### Jurisdiction

- FULL PURPOSE
- LIMITED PURPOSE
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- 2 MILE ETJ AGRICULTURAL AGR
- OTHER CITY LIMITS
- OTHER CITIES ETJ



1: 2,400



NAD\_1983\_StatePlane\_Texas\_Central\_FIPS\_4203\_Feet

Date Printed:

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey. This product has been produced by the City of Austin for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

## Notes

405 Sidehill Path